

118TH CONGRESS  
2D SESSION

# H. R. 10095

To amend the Patient Protection and Affordable Care Act to reduce fraudulent enrollments in qualified health plans, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 1, 2024

Ms. ROSS (for herself and Ms. CASTOR of Florida) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Patient Protection and Affordable Care Act to reduce fraudulent enrollments in qualified health plans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Insurance Fraud Ac-  
5 countability Act”.

6 **SEC. 2. REDUCTION OF FRAUDULENT ENROLLMENT IN**  
7 **QUALIFIED HEALTH PLANS.**

8 (a) PENALTIES FOR AGENTS AND BROKERS.—Sec-  
9 tion 1411(h)(1) of the Patient Protection and Affordable  
10 Care Act (42 U.S.C. 18081(h)(1)) is amended—

1 (1) in subparagraph (A)—

2 (A) by redesignating clause (ii) as clause  
3 (iv);

4 (B) in clause (i)—

5 (i) in the matter preceding subclause  
6 (I), by striking “If—” and all that follows  
7 through the “such person” in the matter  
8 following subclause (II) and inserting the  
9 following: “If any person (other than an  
10 agent or broker) fails to provide correct in-  
11 formation under subsection (b) and such  
12 failure is attributable to negligence or dis-  
13 regard of any rules or regulations of the  
14 Secretary, such person”; and

15 (ii) in the second sentence, by striking  
16 “For purposes” and inserting the fol-  
17 lowing:

18 “(iii) DEFINITIONS OF NEGLIGENCE,  
19 DISREGARD.—For purposes”;

20 (C) by inserting after clause (i) the fol-  
21 lowing:

22 “(ii) CIVIL PENALTIES FOR CERTAIN  
23 VIOLATIONS BY AGENTS OR BROKERS.—If  
24 any agent or broker fails to provide correct  
25 information under subsection (b) or section

1 1311(c)(8) or other information, as speci-  
2 fied by the Secretary, and such failure is  
3 attributable to negligence or disregard of  
4 any rules or regulations of the Secretary,  
5 such agent or broker shall be subject, in  
6 addition to any other penalties that may be  
7 prescribed by law, including subparagraph  
8 (C), to a civil penalty of not less than  
9 \$10,000 and not more than \$50,000 with  
10 respect to each individual who is the sub-  
11 ject of an application for which such incor-  
12 rect information is provided.”; and

13 (D) in clause (iv) (as so redesignated), by  
14 inserting “or (ii)” after “clause (i)”;

15 (2) in subparagraph (B)—

16 (A) by inserting “including subparagraph  
17 (C),” after “law,”;

18 (B) by striking “Any person” and insert-  
19 ing the following:

20 “(i) IN GENERAL.—Any person”; and

21 (i) by adding at the end the following:

22 “(ii) CIVIL PENALTIES FOR KNOWING  
23 VIOLATIONS BY AGENTS OR BROKERS.—

24 “(I) IN GENERAL.—Any agent or  
25 broker who knowingly provides false

1 or fraudulent information under sub-  
2 section (b) or section 1311(c)(8), or  
3 other false or fraudulent information  
4 as part of an application for enroll-  
5 ment in a qualified health plan offered  
6 through an Exchange, as specified by  
7 the Secretary, shall be subject, in ad-  
8 dition to any other penalties that may  
9 be prescribed by law, including sub-  
10 paragraph (C), to a civil penalty of  
11 not more than \$200,000 with respect  
12 to each individual who is the subject  
13 of an application for which such false  
14 or fraudulent information is provided.

15 “(II) PROCEDURE.—The provi-  
16 sions of section 1128A of the Social  
17 Security Act (other than subsections  
18 (a) and (b) of such section) shall  
19 apply to a civil monetary penalty  
20 under subclause (I) in the same man-  
21 ner as such provisions apply to a pen-  
22 alty or proceeding under section  
23 1128A of the Social Security Act.”;  
24 and

25 (3) by adding at the end the following:

1           “(C) CRIMINAL PENALTIES.—Any agent or  
2 broker who knowingly and willfully provides  
3 false or fraudulent information under sub-  
4 section (b) or section 1311(c)(8), or other false  
5 or fraudulent information as part of an applica-  
6 tion for enrollment in a qualified health plan of-  
7 fered through an Exchange, as specified by the  
8 Secretary, shall be fined under title 18, United  
9 States Code, imprisoned for not more than 10  
10 years, or both.”

11 (b) CONSUMER PROTECTIONS.—

12           (1) IN GENERAL.—Section 1311(c) of the Pa-  
13 tient Protection and Affordable Care Act (42 U.S.C.  
14 18031(c)) is amended by adding at the end the fol-  
15 lowing:

16           “(8) AGENT- OR BROKER-ASSISTED ENROLL-  
17 MENT IN QUALIFIED HEALTH PLANS IN CERTAIN  
18 EXCHANGES.—

19           “(A) IN GENERAL.—For plan years begin-  
20 ning on or after such date specified by the Sec-  
21 retary, but not later than January 1, 2028, in  
22 the case of an Exchange that the Secretary op-  
23 erates pursuant to section 1321(c)(1), the Sec-  
24 retary shall establish a verification process for  
25 new enrollments of individuals in, and changes

1 in coverage for individuals under, a qualified  
2 health plan offered through such Exchange,  
3 which are submitted by an agent or broker in  
4 accordance with section 1312(e) and for which  
5 the agent or broker is eligible to receive a com-  
6 mission.

7 “(B) REQUIREMENTS.—The enrollment  
8 verification process under subparagraph (A)  
9 shall include—

10 “(i) a requirement that the agent or  
11 broker provide with the new enrollment or  
12 coverage change such documentation or  
13 evidence (such as a standardized consent  
14 form) or other sources as the Secretary de-  
15 termines necessary to establish that the  
16 agent or broker has the consent of the in-  
17 dividual for the new enrollment or coverage  
18 change;

19 “(ii) a requirement that any commis-  
20 sions due to a broker or agent for such  
21 new enrollment or coverage change are  
22 paid after the enrollee has resolved all in-  
23 consistencies in accordance with para-  
24 graphs (3) and (4) of section 1411(e);

1           “(iii) a requirement that the informa-  
2           tion required under clause (i) and, as ap-  
3           plicable, the date on which inconsistencies  
4           are resolved as described in clause (ii), is  
5           accessible to the applicable qualified health  
6           plan through a database or other resource,  
7           as determined by the Secretary, so that  
8           any commissions due to a broker or agent  
9           for such enrollment can be effectuated at  
10          the appropriate time;

11          “(iv) a requirement that individuals  
12          are notified of any changes to enrollment,  
13          coverage, the agent of record, or premium  
14          tax credits in a timely manner and that  
15          such notice provides plain language in-  
16          structions on how individuals can cancel  
17          unauthorized activity;

18          “(v) a requirement that individuals be  
19          able to access their account information on  
20          a website or other technology platform, as  
21          defined by the Secretary, when used to  
22          submit an enrollment or plan change, in  
23          lieu of the Exchange website described in  
24          subsection (d)(4)(C), including information  
25          on the agent of record, the qualified health

1 plan, and when any changes are made to  
2 the agent of record or the qualified health  
3 plan, on a consumer-facing website or  
4 through a toll-free telephone hotline; and

5 “(vi) a requirement that the agent or  
6 broker report to the Secretary any third-  
7 party marketing organization or field mar-  
8 keting organization (as such terms are de-  
9 fined in section 1312(e)) involved in the  
10 chain of enrollment (as so defined) with re-  
11 spect to such new enrollment or coverage  
12 change.

13 “(C) CONSUMER PROTECTION.—The Sec-  
14 retary shall ensure that the enrollment  
15 verification process under subparagraph (A)  
16 prioritizes continuity of coverage and care for  
17 individuals, including by not disenrolling indi-  
18 viduals from a qualified health plan without the  
19 consent of the individual, regardless of whether  
20 the broker, agent, or qualified health plan is in  
21 violation of any requirement under this para-  
22 graph.”.

23 (2) REQUIRED REPORTING.—Section  
24 1311(c)(1) of the Patient Protection and Affordable  
25 Care Act (42 U.S.C. 18031(c)(1)) is amended—



1 (A) in subparagraph (H), by striking  
2 “and” at the end;

3 (B) in subparagraph (I), by striking the  
4 period at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(J) report to the Secretary the termi-  
7 nation (as defined in section 1312(e)(4)(C)) of  
8 an issuer.”.

9 (c) AUTHORITY TO REGULATE FIELD MARKETING  
10 ORGANIZATIONS AND THIRD-PARTY MARKETING ORGANI-  
11 ZATIONS.—Section 1312(e) of the Patient Protection and  
12 Affordable Care Act (42 U.S.C. 18032(e)) is amended—

13 (1) by redesignating paragraphs (1) and (2) as  
14 subclauses (I) and (II), respectively, and adjusting  
15 the margins accordingly;

16 (2) in subclause (II) (as so redesignated), by  
17 striking the period at the end and inserting “; and”;

18 (3) by striking the subsection designation and  
19 heading and all that follows through “brokers—”  
20 and inserting the following:

21 “(e) REGULATION OF AGENTS, BROKERS, AND CER-  
22 TAIN MARKETING ORGANIZATIONS.—

23 “(1) AGENTS, BROKERS, AND CERTAIN MAR-  
24 KETING ORGANIZATIONS.—

1           “(A) IN GENERAL.—The Secretary shall  
2 establish procedures under which a State may  
3 allow—

4           “(i) agents or brokers—”; and  
5 (4) by adding at the end the following:

6           “(ii) field marketing organizations  
7 and third-party marketing organizations to  
8 participate in the chain of enrollment for  
9 an individual with respect to qualified  
10 health plans offered through an Exchange.

11          “(B) CRITERIA.—For plan years beginning  
12 on or after such date specified by the Secretary,  
13 but not later than January 1, 2028, the Sec-  
14 retary, by regulation, shall establish criteria for  
15 States to use in determining whether to allow  
16 agents and brokers to enroll individuals and  
17 employers in qualified health plans as described  
18 in subclause (I) of subparagraph (A)(i) and to  
19 assist individuals as described in subclause (II)  
20 of such subparagraph and field marketing orga-  
21 nizations and third-party marketing organiza-  
22 tions to participate in the chain of enrollment  
23 as described in subparagraph (A)(ii). Such cri-  
24 teria shall, at a minimum, require that—

1           “(i) an agent or broker act in accord-  
2           ance with a standard of conduct that in-  
3           cludes a duty of such agent or broker to  
4           act in the best interests of the enrollee;

5           “(ii) a field marketing organization or  
6           third-party marketing organization agree  
7           to report the termination of an agent or  
8           broker to the applicable State and the Sec-  
9           retary, including the reason for termi-  
10          nation; and

11          “(iii) an agent, broker, field mar-  
12          keting organization, or third-party mar-  
13          keting organization—

14               “(I) meet such marketing re-  
15               quirements as are required by the  
16               Secretary;

17               “(II) meet marketing require-  
18               ments in accordance with other appli-  
19               cable Federal or State law;

20               “(III) does not employ practices  
21               that are confusing or misleading, as  
22               determined by the Secretary;

23               “(IV) submit all marketing mate-  
24               rials to the Secretary for, as deter-

1           mined appropriate by the Secretary,  
2           review and approval;

3                   “(V) is a licensed agent or broker  
4           or meets other licensure requirements,  
5           as required by the State;

6                   “(VI) register with the Secretary;  
7           and

8                   “(VII) does not compensate any  
9           individual or organization for referrals  
10          or any other service relating to the  
11          sale of, marketing for, or enrollment  
12          in qualified health plans unless such  
13          individual or organization meets the  
14          criteria described in subclauses (I)  
15          through (VI).

16           “(C) DEFINITIONS.—In this paragraph:

17                   “(i) CHAIN OF ENROLLMENT.—The  
18          term ‘chain of enrollment’, with respect to  
19          enrollment of an individual in a qualified  
20          health plan offered through an Exchange,  
21          means any steps taken from marketing to  
22          such individual, to such individual making  
23          an enrollment decision with respect to such  
24          a plan.

1           “(ii) FIELD MARKETING ORGANIZA-  
2           TION.—The term ‘field marketing organi-  
3           zation’ means an organization or individual  
4           that directly employs or contracts with  
5           agents and brokers, or contracts with car-  
6           riers, to provide functions relating to en-  
7           rollment of individuals in qualified health  
8           plans offered through an Exchange as part  
9           of the chain of enrollment.

10           “(iii) MARKETING.—The term ‘mar-  
11           keting’ means the use of marketing mate-  
12           rials to provide information to current and  
13           prospective enrollees in a qualified health  
14           plan offered through an Exchange.

15           “(iv) MARKETING MATERIALS.—The  
16           term ‘marketing materials’ means mate-  
17           rials relating to a qualified health plan of-  
18           fered through an Exchange or benefits of-  
19           fered through an Exchange that—

20                   “(I) are intended—

21                           “(aa) to draw an individual’s  
22                           attention to such plan or the pre-  
23                           mium tax credits or cost-sharing  
24                           reductions for such plan or plans  
25                           offered through an Exchange;

1 “(bb) to influence an indi-  
2 vidual’s decision-making process  
3 when selecting a qualified health  
4 plan in which to enroll; or

5 “(cc) to influence an enroll-  
6 ee’s decision to stay enrolled in  
7 such plan; and

8 “(II) include or address content  
9 regarding the benefits, benefit struc-  
10 ture, premiums, or cost sharing of  
11 such plan.

12 “(v) TERMINATION.—The term ‘ter-  
13 mination’, with respect to a contract or  
14 business arrangement between an agent or  
15 broker and a field marketing organization,  
16 third-party marketing organization, or  
17 health insurance issuer, means—

18 “(I) the ending of such contract  
19 or business arrangement, either uni-  
20 laterally by one of the parties or on  
21 mutual agreement; or

22 “(II) the expiration of such con-  
23 tract or business arrangement that is  
24 not replaced by a substantially similar  
25 agreement.

1                   “(vi) THIRD-PARTY MARKETING ORGA-  
2                   NIZATION.—The term ‘third-party mar-  
3                   keting organization’ means an organization  
4                   or individual that is compensated to per-  
5                   form lead generation, marketing, or sales  
6                   relating to enrollment of individuals in  
7                   qualified health plans offered through an  
8                   Exchange as part of the chain of enroll-  
9                   ment.”.

10           (d) TRANSPARENCY.—Section 1312(e) of the Patient  
11 Protection and Affordable Care Act (42 U.S.C. 18032(e))  
12 (as amended by subsection (c)) is amended by adding at  
13 the end the following:

14                   “(2) AUDITS.—

15                   “(A) IN GENERAL.—For plan years begin-  
16                   ning on or after such date specified by the Sec-  
17                   retary, but not later than January 1, 2028, the  
18                   Secretary, in coordination with the States and  
19                   in consultation with the National Association of  
20                   Insurance Commissioners, shall implement a  
21                   process for the oversight and enforcement of  
22                   agent and broker compliance with this section  
23                   and other applicable Federal and State law (in-  
24                   cluding regulations) that shall include—

1                   “(i) periodic audits of agents and bro-  
2                   kers based on—

3                   “(I) complaints filed with the  
4                   Secretary by individuals enrolled by  
5                   such an agent or broker in a qualified  
6                   health plan offered through an Ex-  
7                   change;

8                   “(II) an incident or enrollment  
9                   pattern that suggests fraud; and

10                  “(III) other factors determined  
11                  by the Secretary; and

12                  “(ii) a process under which the Sec-  
13                  retary shall share audit results and refer  
14                  potential cases of fraud to the relevant  
15                  State department of insurance.

16                  “(B) EFFECT.—Nothing in this paragraph  
17                  limits or restricts any referrals made under sec-  
18                  tion 1311(i)(3) or any enforcement actions  
19                  under section 1411(h).

20                  “(3) LIST.—The Secretary shall develop a proc-  
21                  ess to regularly provide to qualified health plans,  
22                  Exchanges, and States a list of suspended and ter-  
23                  minated agents and brokers.”.

○